

UNITED STATES District Court
Northern District of Illinois
EASTERN DIVISION

PHH

Rodney Patton

v.

08 CV 1975

WILVIE HARRIS

FILED

5-9-2008
MAY - 9 2008 *act*

Notice of Appeal

MICHAEL W. DOBBING
CLERK, U.S. DISTRICT COURT

Notice is hereby given that Rodney Patton, Plaintiff in the above named case, Appeals from the judgment entered on April 10th, 2008.

Dated this 7th day of MAY, 2008

Signed: Rodney Patton

Appellant

Rodney Patton N-90674

P.O. Box 112

Joliet, Illinois 60434-0112

UNITED STATES Court of Appeals
for the 7th Circuit

Rodney Patten

v.

08 CV 1975

WILVIS HARRIS

Appeal

This is an appeal from a judgment by the District Court, the Honorable Milton I. Shador, denying the Plaintiff's complaint for failure to state a claim. The Plaintiff filed a Motion to reconsider basing the reconsideration on information the Plaintiff received after the Plaintiff complaint was filed. The Plaintiff feels that the Honorable Milton I. Shador misunderstood the Plaintiff Complaint/Motion, and when the Plaintiff seek to amend the complaint it should have been granted. The Plaintiff will not waste the court time on this matter but will present the main issue in the Plaintiff complaint.

The Plaintiff ask the Court of Appeals to reverse the judgment entered with direction to allow the Plaintiff leave to amend my complaint.

For the following reasons this Appeal should be granted:

Defendant HARRIS wrote an disciplinary report (Exhibit A) in which he failed to provide exonerating information (Exhibit F) ^{that} ~~which~~ would have cleared the Plaintiff based on information he had at the time he wrote the disciplinary report. (Exhibit F) The Plaintiff states that under Section 504.30 of the Code of Corrections my Constitutional rights to due process were denied by Defendant HARRIS. Section 504.30 reads in full that "504.30 D(4)(5) The disciplinary report must be fully completed. The reporting employee shall provide the following information to the extent known or available, ... (4) A written statement of the conduct observed, ... (5) The names of offenders, employees, and visitors who were witnesses. The identity of witness may be withheld for reasons of security provided a statement to the effect and the information the confidential source provided are provided on the disciplinary report to the extent the information can be included without jeopardizing security." Under this section Defendant HARRIS violated my Constitutional rights to due process by not giving a full account (Exhibit F) of the events that took place before he wrote the disciplinary report (Exhibit A) when he had knowledge and knew

that failure to state such would result in the Plaintiff not receiving a fair hearing.

Secondly the Plaintiff complains that the test (urinalysis) was conducted incorrectly as outline in (exhibit B) the Plaintiff statement given to the adjustment committee. Defendant HARRIS failure to administer the urine test correctly resulted in a false positive reading when Defendant HARRIS poured the Plaintiff first sample in the toilet. A new test cup was to be provided as outline in (exhibit H) the manual provided by the manufacture. Defendant HARRIS failure to also know that once the test was activated and there was not enough urine or in this case the removal of my urine would cause the test to fail. Defendant HARRIS training to follow procedure as recommend by the Manufacture cause the plaintiff constitutional rights to due process to yet again to be violated.

Defendant HARRIS signed a statement written by the Plaintiff in which Defendant HARRIS wrote "I validate the statement" (exhibit F) The failure to include this information in the disciplinary report and the failure to administer the urine test correctly violates the plaintiff due process right and the Plaintiff should have been granted leave to amend my complaint base

on the information provided.

The Plaintiff further states that at the time the complaint was being seen I did not have this information (exhibit H), but in my Motion for reconsideration I ask the District Court to Allow me leave to Amend my complaint.

The Plaintiff filed with the District Court a motion for reconsideration and my Motion was not heard. The Plaintiff had 10 days to file my Motion for reconsideration before the court and the Plaintiff motion was dated April 17, 2008, and the Clerk stamp it received April 21, 2008, the Plaintiff then sent in another notice to the Court to be heard, but no answer at the time of the Appeal.

The Plaintiff ask the court of Appeals to review the Plaintiff claim, and Allow the Plaintiff leave to Amend.

Respectfully Submitted,



Appeal Dated May 7, 2008

State of Illinois - Department of Corrections
DISCIPLINARY REPORTPage 1 of 1☒ Disciplinary Report 10-4-07 ☐ Investigative Report _____
Date DateCommitted Person: PATTEN No. N90674 Facility: STATEVILLE C.C.Observation Date: 10-4-07 Time: 12:50 P ☒ Location: F-HSEWilvis Harris W. Harris 10-4-07 1:00 P
PRINT Employee's Name Employee's Signature/Date/TimeOffense: 203 Drugs and Drug Paraphernalia
604 BObservation: On the above date and approximate time, this R/c
ordered inmate PATTEN N90674 to provide a urine sample
for the purpose of a drug test. The urine sample inmate
PATTEN N90674 supplied was tested directly in a Quick Screen 5
test cup, which displayed a positive detection of Amphetamines.

- END Report -

Witnesses, if any: _____

NOTE: Use continuation page if necessary to describe observation and/or list witnesses.

☐ Temporary Confinement ☐ Investigative Status Reasons: _____E. J. Frank [Signature] 10/04/07
PRINT Name Shift Supervisor's Signature and Date
(For Community Correctional Centers, Chief Adm. Off.)☒ Confinement Reviewed by Reviewing Officer Comment: _____
Mason A. Hunter [Signature] 10-5-07
PRINT Name Signature/Date☒ MAJOR, submitted to Adjustment Committee ☐ MINOR, submitted to Program Unit
Mason A. Hunter [Signature] 10-5-07
PRINT Name Reviewing Officer's Signature and Date☒ Reviewed by Hearing Investigator: A. F. Meier [Signature] 10-5-07
(Adult Division Major Reports Only) PRINT Name Signature and Date

PROCEDURES APPLICABLE TO ALL HEARINGS ON INVESTIGATIVE AND DISCIPLINARY REPORTS

You have the right to appear and present a written or oral statement or explanation concerning the charges. You may present relevant physical material such as records or documents.

PROCEDURES APPLICABLE TO HEARINGS CONDUCTED BY THE ADJUSTMENT COMMITTEE ON DISCIPLINARY REPORTS

You may ask that witnesses be interviewed and, if necessary, they may be called to testify during your hearing. You may ask that witnesses be questioned along lines you suggest. You must indicate in advance of the hearing the witnesses you wish to have interviewed and specify what they could testify to by filling out the appropriate space on this form, tearing it off, and returning it to the Adjustment Committee. You may have staff assistance if you are unable to prepare a defense. You may request a reasonable extension of time to prepare for your hearing. If you are found guilty of a serious rule violation, you may be placed in confinement and/or lose privileges, and/or be required to make restitution. In addition, juveniles may receive a delay in recommended parole.

Committed Person Refused to Sign ☒
B. Wester Hansen #2838 [Signature] 10-8-07 8:10 AM
PRINT Serving Employee's Name Serving Employee's Signature Date and Time Served

I hereby agree to waive 24-hour notice of charges prior to the disciplinary hearing.

EXHIBIT A

Offense Date:

STATE OF ILLINOIS -- DEPARTMENT OF CORRECTIONS

ADJUSTMENT COMMITTEE
FINAL SUMMARY REPORT

Name: PATTON, RODNEY IDOC Number: N90674 Race: BLK
Hearing Date/Time: 10/9/2007 09:40 AM Living Unit: STA-F-01-15 Orientation Status: N/A
Incident Number: 200701847/1 - STA Status: Final

Date	Ticket #	Incident Officer	Location	Time
10/4/2007	200701847/1-STA	HARRIS J, NATHAN A	F HOUSE	12:50 PM

Offense	Violation	Final Result
203	Drugs & Drug Paraphernalia Comments: TESTED POSITIVE FOR AMPHETAMINES	Guilty

Witness Type	Witness ID	Witness Name	Witness Status
No Witness Requested			

RECORD OF PROCEEDINGS

* Inmate was present when ticket was read. Inmate stated he was given drug test, but claims test was administered in correctly. Inmate stated he initially gave inadequate sample (urine). Inmate stated officer threw out sample. Inmate stated he was later given same cup again, not a new cup. Inmate stated he contends that first sample began the drug test activating cup, causing false reading. Inmate stated he is prescribed back pain medication. Inmate stated he denies ever using amphetamines.

BASIS FOR DECISION

OTS shows inmate assigned to F-house on reported day. Inmate was ID by state issued ID card. Staff was giving Inmate Patton N-90674 a drug test. Staff observed inmate Patton receive on 8 ounce cup of water at 12:30pm. Staff observed inmate Patton provided a sample of urine for the drug test. Staff used a Quick screen 5 test cup, which displayed a positive test for amphetamines. All IDOC protocol was followed during the drug test. Attached is a copy of DOC0300 show a positive test. Restitution is request for the test cup, at a cost of \$7.88. Committee stands by report as written.

DISCIPLINARY ACTION (Consecutive to any priors)

RECOMMENDED

6 Months C Grade
6 Months Segregation
Revoke GCC or SGT 6 Months
Restitution of \$ 7.88 Paid to IDOC
6 Months Contact Visits Restriction
6 Months Commissary Restriction
Basis for Discipline: positive drug test

FINAL

6 Months C Grade
6 Months Segregation
Revoke GCC or SGT 6 Months
Restitution of \$ 7.88 Paid to IDOC
6 Months Contact Visits Restriction
6 Months Commissary Restriction



Signatures

Hearing Committee

EDWARDS, DARRYL M - Chair Person

CLEVENGER, TIMOTHY W

Recommended Action Approved

	10/09/07	BLK
Signature	Date	Race
	10/09/07	WHI
Signature	Date	Race

Final Comments: N/A

Exhibit B

STATE OF ILLINOIS - DEPARTMENT OF CORRECTIONS

ADJUSTMENT COMMITTEE
FINAL SUMMARY REPORT

Name: PATTON, RODNEY

IDOC Number: N90674

Race: BLK

Hearing Date/Time: 10/9/2007 09:40 AM

Living Unit: STA-F-01-15

Orientation Status: N/A

Incident Number: 200701847/1 - STA

Status: Final

TERRY L MCCANN / TLM 10/12/2007

Chief Administrative Officer

Signature

10/12/07

Date

The committed person has the right to appeal an adverse decision through the grievance procedure established by Department Rule 504: Subpart F.

R. I. Wojcik
Employee Serving Copy to Committed Person10-12-07 10:31am via mail
When Served -- Date and Time

ON 10-4-07 C/O W. HARRIS GAVE ME A TEST CUP FOR A URINE SAMPLE, MY FIRST SAMPLE WASNT ENOUGH, AND C/O W. HARRIS POURED HIS SAMPLE IN THE CUP. I PUT (RP) ON THE TEST, AND REQUESTED ANOTHER TEST CUP.

C/O W. HARRIS GAVE ME WATER WHILE I WAITED.

C/O W. HARRIS CAME BACK WHEN I WAS READY, AND I GAVE ANOTHER SAMPLE, AFTER THIS SAMPLE I NOTICE THE (RP) ON THE TEST CUP, AND ASK C/O W. HARRIS WHAT HAPPEN TO THE NEW TEST CUP. C/O W. HARRIS STATED THAT HE WAS TOLD BY LT. D. JOHNSON OF INTERNAL AFFAIRS NOT TO GIVE ME ANOTHER TEST CUP. C/O W. HARRIS THEN CROTE ME UP, AND I WAS PLACED IN SEG. THIS STATEMENT WAS SIGN BY BOTH PARTIES ON MARCH 6, 2008.

I VALIDATE
THE STATEMENT

W. Harris
C/O W. HARRIS

Rodney Patton N9067
Rodney Patton

NOTE THIS STATEMENT GOES
WITH GRIEVANCE #1266

Disp. Report written on 10-4-07

EXHIBIT F

Pharmatech, Inc., 9530 Padgett Street, Suite 101 San Diego, CA 92126 USA
(888) 633-5841 Toll-free (619) 635-5843 Fax Internet: www.pharmatech.com

QuickScreen™ Cup Multi Drug Screening Test

Catalog # 9177X-25

Test Instructions

Intended Use

The QuickScreen™ Cup Multi Drug Screening Test is a rapid, self-timed, qualitative immunoassay for the detection of drugs of abuse in urine. The cutoff concentrations for this test are PCP at 25 ng/mL, Amphetamine at 1000 ng/mL, THC metabolite (THCA) at 50 ng/mL, Cocaine metabolite (Benzoylecgonine) at 300 ng/mL and Opiates at 2,000 ng/mL. This assay is intended for professional use.

This test provides only a preliminary test result. A more specific alternate testing method must be used in order to obtain a confirmed analytical result. Gas chromatography / mass spectrometry (GC/MS) is the preferred confirmatory method. Other chemical confirmation methods are available. Clinical consideration and professional judgment should be applied to any drug of abuse test result, particularly when preliminary positive results are observed.

Summary & Explanation of the Test

Phencyclidine, also known as "Angel Dust" or PCP, is used primarily as a recreational drug for its hallucinogenic effects. Commonly eaten, inhaled, smoked or injected, it is well absorbed by all routes of administration, concentrating fastest in fatty tissues and in the brain. Unchanged PCP is secreted in the urine in moderate amounts (10% of the dose). The terminal half-life for PCP varies considerably, ranging from 8 to 55 hours, averaging 18 hours. The effects of this drug are unpredictable and variable. Users may exhibit signs of euphoria, anxiety, relaxation, increased strength, time and space distortions, panic and hallucinations.

Amphetamine (AMP) and its metabolites are central nervous system stimulants whose pharmacological properties include alertness, wakefulness, increased energy, reduced hunger and an overall feeling of well-being. Large doses and extended usage can result in higher tolerance levels and physiological dependency. Both *d* and *l* forms of Amphetamine are controlled substances.

Δ^9 -Tetrahydrocannabinol (THC) is generally accepted to be the principle active component in marijuana and hashish, although other cannabinoids contribute to their physiological activity. THC is rapidly absorbed by inhalation and by the gastrointestinal tract, and is almost completely metabolized. Its predominant metabolite, 11-Nor- Δ^9 -THC-9-carboxylic Acid, or THCA, is found in the plasma, feces and urine along with other compounds. Low concentrations of THC may be detected in urine during the initial several hours, but THCA persists in urine at a detectable concentration for many days after smoking.

Cocaine (COC) is an alkaloid present in coca leaves (*Erythroxine coca*) whose pharmacological properties include alertness, wakefulness, increased energy and an overall feeling of euphoria. Cocaine has been used medicinally as a local anesthetic, however, its addictive properties have minimized its modern value as an anesthetic. Elimination of cocaine is predominantly controlled by its biotransformation. It is almost completely metabolized to Benzoylecgonine. Very low concentrations of Cocaine may be de-

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ected in urine during the initial several hours, but Benzoylecgonine persists in urine at detectable concentrations for 48 hrs.

Opiates (OPI 2000) are addictive, pain-relieving narcotic drugs derived from the opium poppy (*Papaver somniferum*). An opiate is any natural or synthetic drug derived from this plant that has morphine-like pharmacological actions. Natural opiates include Codeine, Morphine and Thebaine. Synthetic opiates include Heroin, Hydrocodone and Levorphanol.

Urine based screening tests for drugs of abuse range from complex analytical procedures to simple immunoassay tests. The sensitivity and rapidity of immunoassays have made them the most accepted method of preliminary screening for drugs of abuse in urine. This allows the laboratory to eliminate the large number of negative specimens and focus on the smaller number of initially positive samples.

Principle of the Procedure

The QuickScreen™ Cup Multi-Drug Screening Test is a competitive immunoassay that is used to screen for the presence of drugs of abuse in urine. It is a chromatographic absorbent device in which drugs or drug metabolites in a sample compete with drug / protein conjugate immobilized on a porous membrane for a limited number of antibody / dye conjugate binding sites. The test device employs a unique combination of monoclonal and polyclonal antibodies to selectively identify drugs of abuse in urine with a high degree of confidence. The test device also contains a self-timer that indicates when test results are ready to be interpreted.

In the procedure, a fresh urine sample is collected directly into the cup. The urine is absorbed into each test panel by capillary action, mixes with the antibody / dye conjugate, and flows across the pre-coated membrane. When sample drug levels are below the target cutoff (the detection sensitivity of the test), antibody / dye conjugate binds to the drug / protein conjugate immobilized in the Test Region (T) of the device. This produces a colored Test Band that, regardless of its intensity, indicates a negative result.

When sample drug levels are at or above the target cutoff, the free drug in the sample binds to the antibody / dye conjugate, preventing the antibody / dye conjugate from binding to the drug / protein conjugate immobilized in the Test Region (T) of the device. This prevents the development of a distinct colored band, indicating a potentially positive sample.

In either case, a colored Control Band is produced in the Control Region (C) by a non-specific antibody-dye / conjugate reaction. This band serves as a built-in quality control device, demonstrating antibody recognition and reactivity as well as confirming that the test is complete.

Reagents & Materials Supplied

- 25 "Self-Timed" Test Cups (Cat. # 9177X). Separate test panels for each target drug contain:
 - Monoclonal anti-drug antibody / colloidal gold conjugate in a protein matrix containing 0.1% sodium azide coated in the sample path
 - Drug derivative / protein conjugate immobilized as a line in the Test Region (T)
 - Goat anti-mouse antibody immobilized as a line in the Control Region (C)
- Directional Insert (Cat. # 9177X-DI)

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Warnings & Precautions

- FOR PROFESSIONAL, *IN VITRO* DIAGNOSTIC USE ONLY.
- This method is established using urine only. No other fluid has been evaluated. Urine has the potential to be infectious. Follow Universal Precautions for proper handling and disposal methods.
- Do not use this kit beyond its expiration date. Do not reuse the Test Device.

Storage & Handling Requirements

Store at room temperature (15 - 28 °C). Do not freeze. Refer to expiration date for stability.

Sample Collection & Preparation

A fresh urine sample should be collected in the cup device immediately prior to testing. The urine should be collected to the recommended volume indicated by the "FILL TO HERE" mark on the outside of the cup. Examine the temperature strip within 1 minute after collecting the specimen. The temperature should be between 90 and 100 °F. Samples outside this range may have been adulterated.

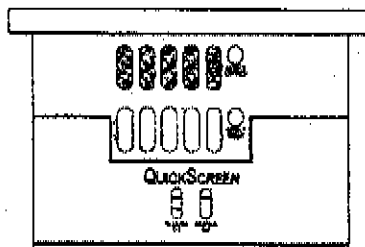
Assay Procedure

Preparation

- Confirm that the cup device is at room temperature (15 - 28 °C) before testing.
- Do not break the seal on the lid until you are ready to perform the test.

Testing

- Open the foil pouch, remove the test device, remove the cap from the test device and discard the desiccant packets.
- Have the donor collect his or her urine specimen in the cup to the recommended volume. Make sure the urine level is at least at the "FILL TO HERE" mark printed on the front of the cup.
- Read the test results when indicated (see When to Read Test Results Using the "Timer".)



When to Read Test Results Using the "Timer"

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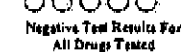


When the "RESULT READY" window is completely filled with red color, or is almost completely covered with red color that reaches the top of the window, the test results are ready to interpret.



When red color becomes clearly visible at the bottom of the "RESULT EXPIRED" window, test results should no longer be interpreted and should not be considered as conclusive.

Interpretation of Test Results



Negative - A negative result is indicated when two (2) colored bands appear, one in the Control Region (C) and one in the Test Region (T), before any red color appears at the bottom of the "RESULT EXPIRED" window. This result indicates that the target drug is not present or its concentration is below the detection sensitivity of the test panel. Some negative results may appear in as little as 1 minute, and can be safely interpreted as soon as 2 colored bands are visible.

Positive - A positive result is indicated when only one (1) colored band appears in the Control Region (C) and no band appears in the Test Region (T), after a red spot appears in the "RESULT READY" window. This result indicates that the target drug concentration is at or above the detection sensitivity of the panel. More than one panel may be positive. Potentially positive results can only be reported when a red spot appears in the timer's "RESULT READY" window, and before any red color appears at the bottom of the timer's "RESULT EXPIRED" window.

Invalid - A test must be considered invalid if, after a red spot appears in the "RESULT READY" window, no bands appear or if a band appears in the Test Region without a Control Band. The presence of a Control Band is necessary to confirm assay performance.

Invalid - A test must be considered invalid if, after a red spot appears in the "RESULT READY" window, no bands appear or if a band appears in the Test Region without a Control Band. The presence of a Control Band is necessary to confirm assay performance.

